

# MPOS, RPOS & THE STATE GOVERNMENT ETHICS ACT: FREQUENTLY ASKED QUESTIONS

## WHAT IT IS & WHO IS INCLUDED.

- **What is the State Government Ethics Act & why does it apply to Metropolitan Planning Organizations (MPOs) and Rural Planning Organizations (RPOs)?**

The State Government Ethics Act establishes a code of conduct and other requirements for certain public officials and employees. In 2012, the General Assembly passed legislation designating MPOs and RPOs as “boards” under the Ethics Act. Therefore, members of MPOs and RPOs are covered under the Ethics Act and come under the jurisdiction of the North Carolina State Ethics Commission.

- **What is the scope of coverage? Specifically, are both the Transportation Coordinating Committees (TCC) & the Transportation Advisory Committees (TAC) covered by the ethics act?**

Yes. Since both the TCC and TAC make up the MPO or RPO, both committees are covered. The Ethics Commission issued a formal advisory opinion on this question in 2012 (AO-E-002), which is available on the Commission’s web site (see below).

- **Are Citizens Advisory Committees (CACs) or other sub-committees of the TACs or TCCs covered?**

No. While not yet the subject of a formal advisory opinion by the Commission, staff has concluded that there was no legislative intent to cover CACs or other sub-committees.

- **Since both TCCs and TACs are covered by the State Government Ethics Act, does that mean that all voting members of the TCCs and TACs are subject to the Ethics Act?**

Yes. All voting members of both the TCCs and TACs of each MPO or RPO are covered by the Ethics Act.

- **Are voting alternates, designees, or substitute members also covered and required to comply with all Ethics Act requirements?**

Yes. If an alternate, substitute, or designated member is a *voting member* of the MPO/RPO, he or she is covered and must comply with all Ethics Act requirements, including filing a financial and personal interest disclosure form by the applicable due date (see below).

- **What if I am a member of the MPO or RPO but do not vote (for example, a non-voting member representing certain small-population towns)?**

Only voting members of MPOs and RPOs are covered and subject to the requirements of the Ethics Act.

- **When did the law become effective?**

January 1, 2013, so you must comply with all requirements NOW (SEI filing, education, conflict avoidance, gift ban, etc.). Contact the Ethics Commission with any questions concerning your obligations.

## **DISCLOSURE OF FINANCIAL & OTHER INTERESTS -- STATEMENT OF ECONOMIC INTEREST OR "SEI".**

- **What is an SEI, and what do I have to disclose in it?**

An SEI is a legally-required 22-question disclosure form about you and your immediate family members' financial, business, and professional relationships. The specific disclosure requirements are spelled out in the Ethics Act.

- **How do I file my SEI?**

Under the law passed by the General Assembly, you must file your SEI *electronically*. You may *not* submit a paper form. There is information on the Commission's website about obtaining a user ID and password (NCID) and filing the form. Instructions on obtaining an NCID and how to electronically file an SEI are also on the Commission's website.

- **What is the SEI filing deadline?**

April 15, 2013.

- **Is there a penalty for not filing, late filing, or filing an incomplete or false SEI?**

Yes. The State Ethics Commission may impose a \$250 fine for late filing or failure to file, and you may be removed from your board membership. There are also criminal penalties for knowingly failing to disclose information or providing false information.

- **Am I required to list the amount of my, or my immediate family member(s)', income?**

**No!** It is not a new worth disclosure form. Question 10 on the SEI requires you to list "sources" of income above the threshold amount (\$5000), but not specific amounts of your income.

- **The Ethics Act says that certain public servants who make less than \$60,000 do not have to file an SEI. Does this apply to members of MPOs and RPOs (both TCC and TAC members), specifically any state employees serving on those boards"?**

No. That filing exemption only applies to certain delineated public servants as set out in the Ethics Act (public servants who are employees of the Governor's office, confidential assistants and secretaries to constitutional officers of the State, employees in exempt positions, and other designated State employees). This exception does *not* apply to members of covered "boards." Members of MPOs and RPOs are covered by virtue of being on the MPO/RPO, and *are required* to file SEIs regardless of the amount of their salaries.

- **Is my SEI a "public record" subject to inspection upon request?**

Yes, all SEIs, including those of covered board members, are public record subject to inspection by members of the public or others upon request. However, they are not available online at this time.

## **EDUCATION.**

- **Am I required to attend ethics education?**

Yes. You must attend an Ethics & Lobbying Education Presentation within six (6) months of your appointment to or commencement of service on an MPO or RPO. So for existing members serving when the law took effect on January 1, 2013, that means you must attend an Ethics Commission education program no later than June 30, 2013.

- **Is that the end of my ethics education obligation?**

No. You must attend a refresher ethics education presentation at least every two (2) years thereafter.

- **Does the ethics education for *local* government officials meet the ethics act education requirement?**

No. The ethics education presentations for local government officials and the ethics act are based on different laws. Therefore, one cannot satisfy the requirements for the other.

- **If I have previously attended ethics education *sponsored by the State Ethics Commission*, do I have to attend another program now?**

No. If you have attended an ethics education presentation sponsored by the State Ethics Commission within the last two years, you do not have to attend again at this time. However, you are still subject to the two-year refresher requirement.

- **If I serve on two boards covered by the Ethics Act, do I have to attend the ethics education program twice?**

No. You only have to attend the Ethics Commission program once every two years. The six-month training requirement would start upon your *first* appointment and extend for two years thereafter.

- **What are the options for fulfilling the ethics education requirement?**

You may attend a live presentation either in Raleigh or at a distance location. You may also fulfill the requirement by completing the Commission's online ethics education presentation. Some distance sites have limited capacity, so you should register early in case they fill up. Likewise, as a matter of courtesy to your fellow board members, please notify Commission staff if you have signed up for a particular presentation but will be unable to attend.

- **Where can I get information about ethics education options?**

A schedule of dates and locations for live presentations as well as access to the online presentation are available on the Commission's website.

- **How does the Commission know that I have attended an official ethics education program? How do I get "credit" for attending?**

After you have attended an Ethics Commission education presentation, or after you complete the online program, you must fill out and submit an Education Certification Form (available on the Commission's web site). You may submit it by mail, fax, or hand-deliver it at a live presentation.

## **PROHIBITIONS & RESTRICTIONS.**

- **Are there conflict of interest standards?**

Yes. In your role as an MPO or RPO member, you are prohibited from taking certain actions where you or certain other individuals or entities associated with you may receive a personal benefit. There are some exceptions to the conflict of interest rules that apply just to you when acting in your *public* capacity.

For example, Commission staff has determined that MPO and RPO members do not have a conflict of interest in matters that may benefit the unit of government they represent on the MPO or RPO, or that may benefit a unit of government that employs a member's spouse or family member. MPO and RPO members *may vote and take other official action* as representatives of their local governments (assuming no personal or other private conflict exists).

- **If I am prohibited from taking official action due to a personal conflict of interest and have to recuse myself from any vote or other action, can I still be counted for purposes of establishing a quorum?**

Yes, as long as all requirements are met. The Ethics Act allows a covered person (like board members of MPOs and RPOs) to be counted for purposes of establishing a quorum if he or she is disqualified from taking official action due to a personal or financial conflict of interest. However, even though you may be counted for purposes of a quorum, you must otherwise abstain from taking any further action. The MPO or RPO must also enter the cause for not establishing a quorum in the minutes.

- **Does the ethics act prohibit accepting “gifts”?**

Yes, from certain individuals, including registered lobbyists, lobbyist principals, and individuals or entities which have certain relationships with your MPO or RPO. There are exceptions to the gift ban, so you should consult Ethics Commission staff if you have any doubt about whether you may accept a gift from one of these “prohibited donors.”

- **Is using my title as an MPO or RPO member restricted?**

Yes, in certain circumstances, primarily dealing with non-governmental advertising.

**What do I do if I have a question?**  
***Contact the State Ethics Commission!***

Phone: (919) 715-2071

SEI Questions: [sei@doa.nc.gov](mailto:sei@doa.nc.gov)

Education Questions: [Education.Ethics@doa.nc.gov](mailto:Education.Ethics@doa.nc.gov)

All Other Questions: [ethics.commission@doa.nc.gov](mailto:ethics.commission@doa.nc.gov)